

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

X

UNITED STATES OF AMERICA, : 17-CR-475(WFK)  
-against- : United States Courthouse  
DILSHOD KHUSANOV, : Brooklyn, New York  
Defendant. : Wednesday, August 10, 2022  
: 12:00 pm.

x

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING  
BEFORE THE HONORABLE WILLIAM F. KUNTZ, II  
UNITED STATES DISTRICT COURT JUDGE

## APP E A R A N C E S:

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EASTERN DISTRICT OF NEW YORK  
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BY:RICHARD W. LEVITT, ESQ.

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Proceedings recorded by mechanical stenography, transcript produced by Computer-Aided Transcription.

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1           THE COURTROOM DEPUTY: Criminal cause for a  
2 sentencing, 17-CR-475, USA v. Khusanov.

3           Counsel, please state your appearances for the  
4 record starting with the Government.

5           MR. HAGGANS: Good afternoon, your Honor. Matthew  
6 Haggans and Jonathan Algor for the United States.

7           THE COURT: Good afternoon.

8           Are you both fully vacc'd and boosted?

9           MR. HAGGANS: Yes, your Honor.

10          THE COURT: You may remove your masks and be seated.

11          And with you at counsel table is?

12          THE PROBATION OFFICER: Shayna Bryant, U.S.  
13 Probation. Good afternoon, your Honor.

14          THE COURT: Good afternoon.

15          Are you fully vacc'd and boosted?

16          THE PROBATION OFFICER: Yes, I am.

17          THE COURT: You may remove your mask if you wish --  
18 you don't have to do it -- and be seated.

19          MR. LEVITT: Good afternoon, your Honor. Richard  
20 Levitt and Deborah Colson on behalf of Dilshod Khusanov, who  
21 is standing to my right.

22          I am fully vaccinated and whatever, your Honor.

23          THE COURT: You may remove your mask, your robe,  
24 whatever else, and be seated. Thank you.

25          MR. LEVITT: I think I'll limit it to the mask.

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1           THE COURT: Okay. Is your client fully vacc'd and  
2 boosted, sir?

3           MR. LEVITT: He only has one vaccination.

4           THE COURT: Then he has to keep his mask on. He  
5 should probably pull it up over his nose just because of our  
6 protocols. Sorry about that.

7           And are you fully vacc'd and boosted, ma'am?

8           MS. COLSON: I am, your Honor.

9           THE COURT: You may remove your mask if you wish.

10          MS. COLSON: Thank you.

11          THE COURT: Thank you. You may be seated.

12          And Ladies and gentlemen of the public, you may be  
13 seated as well.

14          Are there any other counsel who wish to identify  
15 themselves and appear in this action?

16          Hearing none, we will proceed.

17          Good afternoon, Mr. Khusanov.

18          THE DEFENDANT: Good afternoon.

19          THE COURT: I'm going to ask you to pull that  
20 microphone close to you, make sure the light's on. You can  
21 share the one with your counsel if you prefer, just make sure  
22 that green light is on, okay?

23          You can pull it to you, sir. It will swivel.

24          Mr. Khusanov, have you had an opportunity to review  
25 carefully the presentence investigation report filed on

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1 April 5 of 2022 in your case?

2 THE DEFENDANT: Yes, I have.

3 THE COURT: And have you reviewed that report with  
4 your counsel?

5 THE DEFENDANT: Yes, I did.

6 THE COURT: And defense counsel's objections, have  
7 you reviewed those, the objections to the presentence  
8 investigation report filed on April 19 of 2022?

9 THE DEFENDANT: Yes.

10 THE COURT: And have you read the addendum to the  
11 presentence investigation report filed on July 7 of 2022?

12 THE DEFENDANT: Yes.

13 THE COURT: And have you read defense counsel's  
14 sentencing memorandum filed on August 2 of 2022, which  
15 includes the following documents: Copies of your Bureau of  
16 Prisons educational certificates as well as a psychological  
17 services group certificate and group participation report; and  
18 two letters you wrote, one of which is addressed to this  
19 Court, and numerous letters of support from your family and  
20 community.

21 Have you read those items?

22 THE DEFENDANT: Yes, I have.

23 THE COURT: Now, the Government's sentencing  
24 memorandum filed on August 7 of 2022, have you read that, sir?

25 THE DEFENDANT: Yes, I have.

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1           THE COURT: Now, in addition to those materials, my  
2 files reflect copies of the following documents: The  
3 indictment filed on August 29 of 2017 and the plea agreement  
4 filed on October 21 of 2021.

5           Are there any other documents, beginning with the  
6 Government, either counsel, would like to mention with  
7 particularity at this time?

8           MR. HAGGANS: Not from the Government, your Honor.

9           THE COURT: Defense counsel?

10          MR. LEVITT: No, your Honor.

11          THE COURT: Mr. Khusanov, do you feel prepared to go  
12 forward with your sentencing today, sir?

13          THE DEFENDANT: Yes, I do.

14          THE COURT: Mr. Khusanov, you have the right to  
15 address this Court before I impose sentence. I will give you  
16 the opportunity to do so in just a few minutes and you should  
17 feel free to say anything you think appropriate at that time  
18 before I finalize my judgment in your case.

19          Do you understand?

20          THE DEFENDANT: Yes, I know.

21          THE COURT: Are you satisfied with your counsel's  
22 representation?

23          THE DEFENDANT: Yes, I am.

24          THE COURT: Do you feel you've received the  
25 effective assistance of counsel?

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1           THE DEFENDANT: Yes.

2           THE COURT: If you do not believe you've received  
3 the effective assistance of counsel, you may raise a claim of  
4 ineffective assistance of counsel at an appropriate time and  
5 in an appropriate forum; do you understand?

6           THE DEFENDANT: Yes, I do.

7           THE COURT: The United States Code sets forth the  
8 following sentencing parameters for attempt to provide  
9 material support to a foreign terrorist organization, in  
10 violation of Title 18, United States Code, Section  
11 2339B(a)(1): A statutory maximum imprisonment term of 15  
12 years; a statutory maximum term of supervised release of life;  
13 a statutory probation term of not less than one year nor more  
14 than five years, and that's the statutory maximum imprisonment  
15 term of up to 15 years; a maximum fine of \$250,000; a  
16 mandatory special assessment of \$100 per count, which I'm  
17 required to impose in all cases.

18           This Court must also consider the sentencing  
19 parameters set by the United States Sentencing Guidelines.  
20 Here, the applicable guideline for attempt to provide material  
21 support to a foreign terrorist organization, in violation of  
22 Title 18, United States Code, Section 2339B(a)(1) is USSG  
23 Section 2M, as in Mary, 5.3A, which provides a base offense  
24 level of 26.

25           Because the instant offense involved the provision

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1 of material support with the intent, knowledge, or reason to  
2 believe such support would be used to commit or to assist in  
3 the commission of a violent act, a two-level increase is  
4 warranted pursuant to USSG Section 2M5.3B1E.

5 A 12-level increase is also warranted pursuant to  
6 USSG Section 3A1.4A because the instant offense is a felony  
7 that involved or was intended to promote a federal crime of  
8 terrorism. By reference, in the Section 3A1.4 application,  
9 notes to Title 18, United States Code, Section 2332B(g)(5), a  
10 federal crime of terrorism is defined as an offense that is:  
11 A, calculated to influence or to effect the conduct of  
12 government by intimidation or coercion or to retaliate against  
13 government conduct; and, B, is a violation of one or more of  
14 several enumerated criminal statutes, including Title 18,  
15 United States Code, Section 2339B, relating to providing  
16 material support to a terrorist organization.

17 A two-level reduction is also warranted pursuant to  
18 USSG Section 3E, as in Edward, 1.1A, because the Defendant has  
19 clearly demonstrated acceptance of responsibility for the  
20 offense.

21 A further one-level reduction is warranted pursuant  
22 to USSG Section 3E1.1B because the Government was notified in  
23 a timely manner of the Defendant's intention to plead guilty.  
24 Accordingly, the adjusted offense level is 37.

25 The Defendant has no prior convictions, which

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1 results in a criminal history score of zero. According to the  
2 sentencing table in USSG, Chapter 5, Part A, a criminal  
3 history score of zero establishes a criminal history category  
4 of I.

5 However, pursuant to USSG Section 3A1.4B, the  
6 criminal history category in this case is VI because the  
7 instant offense involved was or was intended to promote a  
8 federal crime of terrorism. For an offense level of 37 and a  
9 criminal history category of VI, the sentencing guidelines,  
10 suggest a term of incarceration of 360 months to life.  
11 However, the statutorily authorized maximum sentence is less  
12 than the maximum of the applicable guideline range; therefore,  
13 the restricted guideline range is 180 months pursuant to USSG  
14 Section 5G1.2B.

15 The guidelines further suggest as follows: A term  
16 of supervised release of one year to life and a fine of  
17 between \$20,000 and \$200,000.

18 Pursuant to paragraph five of the plea agreement,  
19 you also agreed to the entry of a stipulated judicial order of  
20 removal at the time of sentencing under Title 8, United States  
21 Code, Sections 1228(c)(5) and 1227.

22 Probation recommends a sentence of 15 years in the  
23 custody of the Attorney General, two years of supervised  
24 release with special conditions, and a \$100 special  
25 assessment. In support of its recommendation, Probation cites

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1 the seriousness of the offense as well as the Defendant's  
2 efforts to conceal the sources and recipients of the funds and  
3 to avoid detection by law enforcement officers.

4           The defense asks the Court to suggest to the  
5 Government that it agree to a lower sentence and that a lower  
6 sentence be imposed. Defense counsel also requests the Court  
7 recommend the Defendant be housed at the federal correctional  
8 complex in Coleman, C-O-L-E-M-A-N, Florida, the closest  
9 facility to his wife, children, and in-laws.

10           In support of its request, defense counsel  
11 emphasizes the Defendant's regret for his actions as well as  
12 the well-documented harsh conditions the Defendant has  
13 experienced at the MDC; conditions including the 2019 blackout  
14 and the conditions resulting from the COVID-19 pandemic.

15           Despite these conditions, defense counsel notes that  
16 the Defendant received no disciplinary infractions and  
17 completed several courses.

18           Finally, defense counsel emphasizes the Defendant's  
19 wife and children's reliance upon him, particularly noting the  
20 care Defendant provided to his autistic son prior to his  
21 arrest.

22           The Government recommends the Court impose the  
23 sentence agreed upon in Defendant's Rule 11(c)(1)(C) plea  
24 agreement, which is 132 months of incarceration followed by  
25 lifetime supervised release and the entry of the judicial

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1 order of removal.

2                   In support, the Government emphasizes the  
3 seriousness of the Defendant's conduct in providing support to  
4 an individual whom he knew would travel to Syria to fight in  
5 support of a foreign terrorist organization as well as the  
6 Defendant's prior agreement to the sentence in connection with  
7 his guilty plea.

8                   Counsel, beginning with the Government, am I missing  
9 anything pertinent to today's proceedings?

10                  MR. HAGGANS: No, your Honor.

11                  THE COURT: Defense counsel, am I missing anything  
12 pertinent to today's proceedings?

13                  MR. LEVITT: No, your Honor.

14                  THE COURT: Are there any objections either counsel  
15 wishes to raise other than those that have been submitted to  
16 the Court in writing?

17                  Government?

18                  MR. HAGGANS: No, your Honor.

19                  THE COURT: Defense counsel?

20                  MR. LEVITT: No, Judge.

21                  THE COURT: That being the case, I will now turn it  
22 over to defense counsel.

23                  MR. LEVITT: Thank you, Judge.

24                  We don't have anything to add additional to what we  
25 have included within the papers, which I think were thorough

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1 on both sides of these tables. We did have and do have  
2 certain objections to specific factual statements within the  
3 PSR which are noted in our letter to your Honor.

4 THE COURT: Yes, sir. I've reviewed those.

5 MR. LEVITT: So, I have nothing else to add prior to  
6 the imposition of sentence.

7 THE COURT: Thank you, sir.

8 Government counsel?

9 MR. HAGGANS: We won't belabor the point, your  
10 Honor. We know that the Court is very familiar with the  
11 underlying facts of this investigation from presiding over a  
12 related trial.

13 We set forth in our papers and in the plea agreement  
14 between the parties what we believe is the appropriate  
15 sentence in this case and we request that the Court impose  
16 that sentence as respecting the bargain that the parties made  
17 at the time of the plea and that the Defendant accepted at  
18 that time as well.

19 THE COURT: Thank you, counsel.

20 Probation, do you have anything to add?

21 THE PROBATION OFFICER: The probation department  
22 will rely on its response outlined in the addendum and we have  
23 nothing further to add at this time. Thank you.

24 THE COURT: Thank you.

25 Mr. Khusanov, what, if anything, would you like to

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1 say to the Court at this time?

2 THE DEFENDANT: No, thank you. I've already said in  
3 my letter to the Court.

4 THE COURT: Thank you.

5 The Court has this to say, Mr. Khusanov: Perfect  
6 justice in this case would involve a power that neither I nor  
7 any judge nor any human being, for that matter, has in his or  
8 her hands. It is challenging and humbling to sit here as the  
9 Court and to pass sentence on a fellow human being. This case  
10 impacts your community. This case impacts your family.  
11 Ultimately, of course, this case impacts you. Ultimately,  
12 this case is about you, about what you did that brought us  
13 here today, which is a day of sadness and a day of tragedy.

14 On August 29 of 2017, the United States grand jury  
15 returned a two-count indictment charging the Defendant with  
16 conspiracy to provide material support to a foreign terrorist  
17 organization, in violation of Title 18 of the United States  
18 Code, Section 2339B(a)(1), and an attempt to provide material  
19 support to a foreign terrorist organization, in violation of  
20 18 U.S.C. Section 2339B(a)(1).

21 Specifically, the Defendant was charged with  
22 conspiring and attempting to provide financial support for  
23 individuals to travel to the Middle East to join the Islamic  
24 State of Iraq and al-Sham, known as ISIS, and the al-Nusrah,  
25 N-U-S-R-A-H, Front, which at all relevant times have been

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1 designated by the Secretary of State as a foreign terrorist  
2 organization.

3 On October 18 of 2021, the Defendant pled guilty to  
4 Count Two of the indictment, pursuant to a Rule 11(c)(1)(C)  
5 plea agreement. At the conclusion of the change of plea  
6 hearing, the Court accepted the Defendant's plea of guilty and  
7 the plea agreement.

8 Under paragraph two of the plea agreement, the  
9 Government and the Defendant agreed to a sentence of 132  
10 months of incarceration to be followed by a lifetime term of  
11 supervised release. The plea agreement further states the  
12 Defendant agrees to the entry of a stipulated judicial order  
13 of removal to be signed by the Court at the time of sentencing  
14 pursuant to 8 U.S.C. Sections 1228(c)(5) and 1227.

15 The legal standard is as follows.

16 The parties have agreed that the specified  
17 imprisonment and supervised release terms are not based on the  
18 sentencing guidelines, according to the plea agreement  
19 paragraph two. This Court must, however, consider the  
20 guidelines, nevertheless, in deciding whether to accept the  
21 plea agreement and to enter sentence accordingly under United  
22 States Sentencing Guidelines Section 6B1.2.

23 Under USSG Section 6B1.2, the Court may accept an  
24 agreed-upon sentence under Federal Rule of Criminal Procedure  
25 Rule 11(c)(1)(C) if the agreed sentence is within the

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1 applicable guideline range, Section 6B1.2(c)(1). The Court  
2 may also accept the sentence if the agreed-upon sentence falls  
3 below the applicable guideline range and the Court provides  
4 justifiable reasons for the departure from the sentencing  
5 range and sets forth those reasons with specificity in the  
6 statement of reasons form as provided by Section 6B1.3(c)(2).

7 Once the Court accepts the plea agreement, the Court  
8 is bound to the specific sentence agreed upon by the parties  
9 of the plea agreement pursuant to Federal Rule of Criminal  
10 Procedure 11(c)(1)(C).

11 A recommendation or request binds the Court once the  
12 Court accepts the plea agreement. Rejection of the plea  
13 agreement or deviation from the agreed-upon sentence, however,  
14 permits the Defendant to withdraw his guilty plea under  
15 Federal Rule of Criminal Procedure 11(c)(5).

16 18 U.S.C. Section 3553 outlines the procedures for  
17 imposing sentence in a criminal case. The starting point and  
18 initial benchmark in evaluating a criminal sentence is the  
19 guidelines sentencing range as set forth in *Gall v. United*  
20 *States*, 552 U.S. 38 at Page 49, decided by the Supreme Court  
21 in 2007.

22 If and when a district court chooses to impose a  
23 sentence outside the sentencing guideline range, the Court  
24 shall state in open court the reasons for its imposition of a  
25 particular sentence and the specific reason for the imposition

1 of a sentence different from that described in the guidelines  
2 under 18 U.S.C. Section 3553(c)(2). The Court must also state  
3 with specificity its reasons for so departing or varying in a  
4 statement of reasons form.

5 Here, as explained below, the applicable guidelines  
6 sentencing range for the Defendant's offense is 180 months of  
7 imprisonment. The agreed-upon sentence of 132 months of  
8 incarceration falls below that range. The Court, thus, now  
9 provides a statement of justifiable reasons and a simple  
10 fact-specific statement explaining why the guidelines range in  
11 this case does not account for a specific factor or factors  
12 under 3553(a), as set forth by my late lamented colleague Jack  
13 Weinstein in United States v. Davis, 8-CR-332, 2010 WL 1221709  
14 at \*1, decided here in the Eastern District on March 29 of  
15 2010.

16 The analysis begins with the history and  
17 characteristics of the Defendant and the nature and  
18 circumstances of the offense. The first 3553(a) factor  
19 requires this Court to evaluate the nature and circumstances  
20 of the offense and the history and characteristics of the  
21 Defendant.

22 The Defendant was born on September 3, 1985, in  
23 Tashkent, Uzbekistan, to Takhir Khusanov and Valida Khusanov.  
24 Defendant's parents retired and reside in Tashkent. Defendant  
25 also has two sisters who reside there and with whom he is

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1 reportedly in close relationship. The Defendant's father and  
2 sisters, however, are unaware of his conviction. His mother  
3 is aware of his conviction and remains supportive.

4 Defendant was raised by his parents in a middle  
5 income household and reported a normal childhood and good,  
6 solid relationships with his siblings and parents. Defendant  
7 reported no abuse in the household.

8 On July 2013, the Defendant married Aziza,  
9 A-Z-I-Z-A, second name E-R-K-I-N-O-V-A in Kings County, New  
10 York. The Defendant and his wife have three children, one of  
11 whom has autism spectrum disorder. His wife currently resides  
12 in Florida and is unemployed. She is aware of Defendant's  
13 conviction and remains supportive of him.

14 Defendant moved from Tashkent, Uzbekistan, to Troy,  
15 Alabama, in December of 2008 on a student visa to attend  
16 school. He later moved to New York, New York, to live with  
17 friends and an aunt. The Defendant is a permanent United  
18 States resident. The Defendant returned to Uzbekistan for a  
19 short period in 2011 before returning to New York.

20 In May 2014, the Defendant and his wife moved to  
21 Villa Park, Illinois, where he resided prior to his arrest for  
22 the instant offense.

23 In 2008, the Defendant graduated from the Tashkent,  
24 T-A-S-H-K-E-N-T, State University of World Languages with a  
25 degree in world languages.

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1           In January 2009, the Defendant was enrolled in a  
2 Master of Business Administration program for several weeks at  
3 Troy University in Troy, Alabama. He later left the program  
4 due to the language challenges.

5           From 2009 to 2010, the Defendant completed an  
6 English language program at Bluedata, B-L-U-E-D-A-T-A,  
7 International Institute in New York, New York.

8           From August 2015 until his arrest in the instant  
9 offense in 2017, the Defendant was employed driving trucks for  
10 SDE Logistics.

11           The Defendant has no prior convictions.

12           In 2019, the Defendant suffered a knee injury while  
13 in custody and reported the inability to fully extend his  
14 knee. The Defendant's knee injury led to a cyst abscess on  
15 his right knee in November 2021. The Defendant has also  
16 experienced dental issues while in custody and has had several  
17 teeth pulled. The Defendant has no history of any mental or  
18 emotional health issues. Defendant has no history of  
19 substance or alcohol abuse.

20           With respect to the nature and circumstances of the  
21 offense, the investigation in this case began in August of  
22 2014, when agents with the FBI Joint Terrorism Task Force  
23 interviewed Mr. Abdurasul A-B-D-U-R-A-S-U-L, Juraboev,  
24 J-U-R-A-B-O-E-V, a defendant in the related case, following  
25 the agent's discovery of social media posts pledging support

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1 for ISIS.

2                 The investigation revealed that Juraboev and another  
3 defendant, Saidakhmetov, A-K-H-R-0-R Saidakhmetov,  
4 S-A-I-D-A-K-H-M-E-T-0-V, discussed engaging in terrorist acts  
5 in the United States and traveling to Syria to fight with  
6 ISIS. The investigation also revealed the involvement of a  
7 third defendant in United States v. Juraboev, Abror,  
8 A-B-R-0-R, Habibov, H-A-B-I-B-0-V, who employed Saidakhmetov,  
9 helped to purchase and plan Saidakhmetov's plane ticket to  
10 Turkey and subsequent travel to Syria, and worked with two  
11 other Defendants in the Juraboev case, Kasimov and Zakirov,  
12 Akmal Zakirov, A-K-M-A-L Z-A-K-I-R-0-B, to raise money for  
13 Saidakhmetov's actions in Syria.

14                 Throughout late 2014 and early 2015, Juraboev and  
15 Saidakhmetov communicated with ISIS representatives and, with  
16 the assistance of Habibov, planned to travel to Syria to fight  
17 with ISIS. The FBI Joint Terrorism Task Force investigation  
18 revealed the Defendant worked with others to fund  
19 Saidakhmetov's efforts to travel to Syria to join ISIS and to  
20 raise money from others intended to be used for other  
21 individuals to fight on behalf of ISIS in Syria.

22                 Toll records reveal the Defendant was in contact  
23 with Zakirov and others to discuss providing money and  
24 assisting in raising money from others to fund Saidakhmetov's  
25 travels. The Defendant transferred \$100 from his bank account

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1 on February 17, 2015, to Zakirov. The Defendant facilitated  
2 the donation of funds in support of Saidakhmetov's travel from  
3 two additional individuals.

4 Following the February 2015 arrest of Saidakhmetov  
5 and Habibov, intercepted communications reveal the Defendant  
6 had discussed manufacturing a cover story in the event any  
7 confrontation with law enforcement authorities arose. The  
8 Defendant also changed his phone number the day after the  
9 arrest and subsequently informed law enforcement he had  
10 stopped using the telephone number after the arrest because he  
11 did not know what they were doing. The Defendant was arrested  
12 on August 31 of 2017 at his residence in Illinois.

13 The second 3553(a) factor instructs this Court to  
14 consider the need for the sentence imposed: A, to reflect the  
15 seriousness of the offense, to promote respect for the law, to  
16 provide just punishment for the offense; B, to afford adequate  
17 deterrence to criminal conduct; C, to protect the public from  
18 further crimes of the Defendant; and, D, to provide the  
19 Defendant with needed educational or vocational training,  
20 medical care, or other correctional treatment in the most  
21 effective manner. 3553(a)(2) so provides.

22 The instant sentence recognizes the seriousness of  
23 the Defendant's offense, which involved support for a  
24 designated foreign terrorist organization and implicates  
25 national security concerns. The Court's sentence will deter

1 others from engaging in similar acts and justly punishes the  
2 Defendant for his offense.

3 With respect to the kinds of sentence available, the  
4 third 3553(a) factor requires the Court to detail the kinds of  
5 sentence available to this Defendant. The Defendant pled  
6 guilty to one count of attempt to provide material support to  
7 foreign terrorist organizations, in violation of  
8 18 U.S.C. 2339B(a)(1). For that offense, the Defendant faces  
9 a maximum term of imprisonment of 15 years, the maximum term  
10 applicable at the time of the Defendant's conduct.

11 The Court may impose a term of supervised release of  
12 any years up to life.

13 A term of not less than one nor more than five years  
14 of probation may be imposed because the offense is a Class C  
15 felony, 18 U.S.C. Section 3561(c)(1). If probation were to be  
16 imposed, the fine, restitution, and community service would  
17 have to be imposed as a condition of probation unless the  
18 Court found that extraordinary circumstances existed that  
19 would make such a condition plainly unreasonable.

20 The Defendant also faces a maximum fine of \$250,000  
21 under 18 U.S.C. Section 3571(b). Probation notes the  
22 Defendant does not appear to be able to pay such fine.

23 The fourth 3553(a) factor requires the Court to  
24 consider and to discuss the kinds of sentence and the  
25 sentencing range established for the applicable category of

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1 offense committed by the Defendant as set forth in the  
2 guidelines. The typical guideline for 18 U.S.C. 2339B(a)(1)  
3 offense is United States Sentencing Guidelines, Section 2M, as  
4 in Mary, 5.3A, which provides for the base offense level 26.

5 Because the instant offense involved the provision  
6 of material support with intent, knowledge, or reason to  
7 believe such support would be used to commit or to assist in  
8 the commission of a violent act, a two-level increase is  
9 warranted under USSG Section 2M5.3B(1)(e).

10 As the instant offense is a felony that was involved  
11 or was intended to promote a federal crime of terrorism, a  
12 12-level increase is applicable, pursuant to USSG Section  
13 3A1.4. By reference to the Section 3A1.4 application notes to  
14 18 U.S.C. Section 2332B(g)(5), a federal crime of terrorism is  
15 defined as an offense that: A, is calculated to influence or  
16 to affect the conduct of government by intimidation or  
17 coercion or to retaliate against government conduct; and, B,  
18 is a violation of 18 U.S.C. Section 2339B relating to  
19 providing material support to terrorist organizations.

20 A two-level reduction is warranted pursuant to USSG  
21 Section 3E, as an Edward, 1.1 because the Defendant has  
22 clearly demonstrated acceptance of responsibility for the  
23 offense.

24 A further one-level reduction applies because the  
25 Defendant notified the Government in a timely manner of his

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1 intention to enter a plea of guilty.

2 Therefore, the Defendant's total adjusted offense  
3 level, as I previously noted, is 37.

4 The Defendant has no prior convictions, resulting in  
5 a criminal history score of zero; thus, according to the  
6 sentencing table, a criminal history score of zero establishes  
7 a criminal history category of I. However, under USSG Section  
8 3A1.4(b), the criminal history category in this case is VI  
9 because the instant offense involved was or intended to  
10 promote a federal crime of terrorism.

11 An offense level 37 with a criminal history category  
12 of VI would result in a guidelines custody range of 360 months  
13 to life. However, because the statutorily authorized maximum  
14 sentence is less than the maximum of the applicable guidelines  
15 range, the restricted guidelines range is 180 months under  
16 USSG Section 5G1.1(a).

17 Probation, as we've heard, recommends a sentence of  
18 180 months of incarceration to be followed by two years of  
19 supervised release with special conditions.

20 The Government recommends the Court impose the  
21 sentence agreed upon in the Defendant's Rule 11(c)(1)(C) plea  
22 agreement, which is 132 months of incarceration to be followed  
23 by lifetime supervised release.

24 Defense counsel asks this Court to suggest to the  
25 Government that it agree to a lower sentence and that a lower

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1 sentence be imposed. The Court declines to make that  
2 suggestion. Federal Rule of Criminal Procedure 11(c)  
3 absolutely precludes Court involvement in plea negotiations.

4 The fifth 3553(a) factor, which requires the Court  
5 to evaluate any pertinent policy statement issued by the  
6 Sentencing Commission, 18 U.S.C. Section 3553(a)(5) does not  
7 apply here with respect to the Defendant's criminal conduct.

8 The sixth 3553(a) factor requires this Court to  
9 consider the need to avoid unwarranted sentence disparities  
10 among defendants with similar records who have been found  
11 guilty of similar conduct.

12 This case arises from the same factual circumstances  
13 of the related cases, including United States v. Juraboev,  
14 19-CR-95. And in that action, Juraboev pled guilty to one  
15 count of conspiracy to provide material support to a foreign  
16 terrorist organization, in violation of 18 U.S.C. 2339B(a)(1),  
17 and was sentenced by this Court on October 27, 2017, to 180  
18 months of incarceration with no term of supervised release to  
19 follow.

20 Defendant Saidakhmetov pled guilty to one count of  
21 conspiracy to provide material support to a foreign terrorist  
22 organization, in violation of 18 U.S.C. Section 2339B(a)(1),  
23 and was sentenced to this Court on December 20 of 2017 to 180  
24 months of incarceration with no term of supervision to follow.

25 Defendant Rakhmatov pled guilty to one count of

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1 conspiracy to provide material support to a foreign terrorist  
2 organization, in violation of 18 U.S.C. Section 2339B(a)(1),  
3 and was sentenced by this Court on January 14 of 2021 to 150  
4 months of incarceration followed by a lifetime of supervised  
5 release with special conditions.

6 Defendant Kasimov was convicted at the trial by a  
7 jury of his peers on Counts One and Two of the third  
8 superseding indictment, charging him with conspiracy and  
9 attempt to provide material support to a foreign terrorist  
10 organization. Defendant Kasimov was sentenced by this Court  
11 on June 3, 2022, to 180 months of incarceration with ten years  
12 of supervised release with special conditions.

13 On March 16, 2018, Defendant Zakirov pled guilty to  
14 conspiracy to provide material support to a foreign terrorist  
15 organization and attempt to provide material support to a  
16 foreign terrorist organization, violations of  
17 18 U.S.C. Section 2339B(a)(1), and was sentenced by this Court  
18 on July 26, 2022, to time served, approximately 102 months of  
19 incarceration, followed by two years of supervised release  
20 with special conditions.

21 For the reasons stated in this memorandum and order  
22 and considering the other six 3553(a) factors, this Court's  
23 sentence in this case avoids unwarranted sentence disparities.

24 The final, seventh, 3553(a) factor requires this  
25 Court to touch upon the need to provide restitution to any

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1      victims of the offense. That factor does not apply here.

2                 The Court, therefore, accepts the parties' Rule  
3      11(c)(1)(C) plea agreement and sentences the Defendant to 132  
4      months of incarceration followed by lifetime supervised  
5      release.

6                 The Court will now sign and enter the stipulated  
7      judicial order, which is going to be handed up as removal  
8      submitted by the parties at the time of sentencing. That will  
9      be Court Exhibit 1 in evidence.

10                The Court will also order the Defendant to pay the  
11      \$100 mandatory special assessment I'm required to impose, in  
12      all caps, but the Court does not impose a fine because the  
13      Defendant does not have the ability to pay.

14                This sentence is consistent with and sufficient but  
15      not greater than that necessary to accomplish the purposes of  
16      3553. The Court also expressly adopts the factual findings of  
17      the presentence investigation report and any addenda thereto,  
18      barring any errors contained therein and to the extent they  
19      are not inconsistent with the Court's sentence and now directs  
20      the probation department to slowly read those provisions into  
21      the record.

22                THE PROBATION OFFICER: The special conditions of  
23      supervised...

24                May I proceed?

25                THE COURT: Yes, you may. You should address the

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1 Court. I'll let you know when you can go forward.

2 Go ahead.

3 THE PROBATION OFFICER: The special conditions of  
4 supervised release are as follows:

5 The Defendant shall cooperate with and abide by all  
6 instructions of immigration authorities.

7 And if deported or excluded, the Defendant may not  
8 re-enter the United States illegally.

9 THE COURT: Does that complete your report?

10 THE PROBATION OFFICER: This completes the special  
11 conditions of supervised release. Thank you, your Honor.

12 THE COURT: The Court adopts those.

13 Do you have the order to hand up?

14 MR. HAGGANS: We do with one exception, which is the  
15 Defendant's statement. I provided that to the defense.

16 Is it ready?

17 (Pause in proceedings.)

18 THE COURT: I've been handed what has been marked as  
19 Court Exhibit 1 for identification, the order of judicial  
20 removal, which requests my signature. Just for good order's  
21 sake, since I haven't seen this before, let me -- it's a  
22 two-page document. Let me just read it out loud into the  
23 record and see if there are any objections to it or anything  
24 we need to modify.

25 The order of judicial removal in this case reads as

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1 follows: Upon the application of the United States of America  
2 by Douglas M. Pravda, J. Matthew Haggans, and Jonathan E.  
3 Algor, Assistant United States Attorneys, Eastern District of  
4 New York; upon the factual allegations in support of judicial  
5 removal; upon the consent of Dilshod Khusanov, the Defendant;  
6 and upon all prior proceedings and submissions in this matter;  
7 and full consideration having been given to the matter set  
8 forth herein, the Court finds:

9               One, the Defendant is not a citizen or national of  
10 the United States;

11               Two, the Defendant is a native of Uzbekistan and a  
12 citizen of Uzbekistan;

13               Three, the Defendant first entered the United States  
14 on or about December 28, 2008, as an F-1 nonimmigrant student  
15 at or near John F. Kennedy International Airport in New York;

16               Four, the Defendant adjusted his status to that of a  
17 lawful permanent resident on or about December 17 of 2010;

18               Five, at the time of sentencing in the instant  
19 criminal proceeding, the Defendant will be convicted in the  
20 United States District Court, Eastern District of New York, of  
21 one count of attempt to provide material support to a foreign  
22 terrorist organization, in violation of 18 U.S.C. Section  
23 2339B(6);

24               Six, the maximum sentence for a violation of this  
25 statute is 15 years of imprisonment;

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1           Seven, the Defendant is, and at sentencing will be,  
2 subject to removal from the United States pursuant to Section  
3 237(a)(4)(B) of the Immigration and Nationality Act of 1952  
4 ("INA"), as amended, as described in INA Section  
5 212(a)(3)(B)(i)(I), as an alien who has engaged in terrorist  
6 activity as defined in INA Section 212(a)(3)(B)(iv)(VI)(cc),  
7 in that he committed an act that he knows, or reasonably  
8 should know, affords material support to a designated foreign  
9 terrorist organization; to wit, the Islamic State of Iraq and  
10 al-Sham ("ISIS") and Al-Nusrah Front ("AMF");

11           Seven, the Defendant has waived his right to notice  
12 and to hearing under Section 238[(d)](c) of the INA, 8 U.S.C.  
13 Section 1228[(d)](c);

14           Eight, the Defendant has waived the opportunity to  
15 pursue any and all forms of relief and protection from  
16 removal.

17           Wherefore, it is hereby ordered, pursuant to Section  
18 238[(d)](c) of the INA, 8 U.S.C. Section 1228[(d)](c), that  
19 the Defendant shall be removed from the United States promptly  
20 upon his release from confinement, or, if the Defendant is not  
21 sentenced to a term of imprisonment promptly upon his  
22 sentencing, and that the Defendant be ordered removed to  
23 Uzbekistan.

24           Dated New York, New York, line, 2022, a signature  
25 for my line.

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1           I'm changing New York, New York to Brooklyn, New  
2 York.

3           I trust that's acceptable to the parties.

4           MR. LEVITT: Yes, your Honor.

5           MR. HAGGANS: It is, your Honor.

6           THE COURT: I'm dating it today, August 10, 2022.  
7 I'm signing it.

8           Motion from the Government to have Court 1 admitted  
9 into evidence, please?

10          MR. HAGGANS: The Government so moves, your Honor.

11          THE COURT: Any objection?

12          MR. LEVITT: No, your Honor.

13          THE COURT: It's admitted. Thank you.

14          (Court Exhibit 1 so marked.)

15          THE COURT: With respect to the notice of intent to  
16 request judicial removal that was just handed up, do you  
17 suggest that that document, together with the Defendant's plea  
18 statement in support of judicial removal, be marked as an  
19 exhibit, admitted in evidence?

20          I'll ask the Government.

21          MR. HAGGANS: Yes, your Honor.

22          And with respect to the order, the Government  
23 requests that that order be docketed.

24          THE COURT: Of course.

25          MR. HAGGANS: Thank you, your Honor.

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1           THE COURT: So, the notice of intent to request  
2 judicial removal, how should we mark that?

3           Should that be Court Exhibit 2?

4           These are documents I'm just being handed now.

5           MR. HAGGANS: The notice could be 2, the concurrence  
6 could be 3, the factual allegations could be 4, and the  
7 Defendant's statement could be 5, your Honor.

8           THE COURT: Is that acceptable to defense counsel?

9           MR. LEVITT: Yes, your Honor.

10          THE COURT: We will have them so marked and entered  
11 in evidence pursuant to the agreement of counsel.

12          You'll take care of that, Ms. Yu.

13          THE COURTRoom DEPUTY: Yes, sure.

14          THE COURT: Thank you very much.

15          (Court Exhibits 2 through 5 so marked.)

16          THE COURT: Is there anything else from the  
17 Government by way of motions that we need to address today,  
18 outstanding counts, anything like that?

19          MR. HAGGANS: Just a couple of housekeeping matters,  
20 your Honor.

21          THE COURT: Yes.

22          MR. HAGGANS: I believe there is one open count on  
23 this indictment, which the Government moves to dismiss.

24          THE COURT: Any objection?

25          MR. LEVITT: No, your Honor.

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1           THE COURT: Motion is granted.

2           MR. HAGGANS: I don't believe there is an underlying  
3 indictment, but, out of an abundance of caution, if there is,  
4 the Government moves to dismiss that as well.

5           THE COURT: Any objection?

6           MR. LEVITT: No, your Honor.

7           THE COURT: It's granted.

8           MR. HAGGANS: From my tracking, I believe the only  
9 open request is the defense's request for a designation, and  
10 the Government takes no position on that request.

11          THE COURT: I will make that a part of the judgment,  
12 Mr. Levitt. So, that goes into the judgment that will be  
13 entered later today. I'm granting that application on the  
14 part of the Defendant.

15          MR. LEVITT: Yes, thank you, your Honor.

16          The only other request we would make --

17          THE COURT: I'm going to ask you to pull the  
18 microphone a little closer to you, sir.

19          MR. LEVITT: The only other request we would make --  
20 and this is, I guess, more for the Government, I can take it  
21 up with them -- they had previously seized or been provided  
22 voluntarily by Mr. Khusanov two phones and a computer, and  
23 he'd like that to be returned.

24          THE COURT: I'll let you take that up with the  
25 Government.

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1           I touched on this earlier, but I'm particularly  
2 sensitive to the dictates of Rule 11(c), which state, and I  
3 just wanted to put this in hot verba, as it were, in the  
4 record from Rule 11(c) of the Federal Rules of Criminal  
5 Procedure, to quote it: In general, an attorney for the  
6 Government and the Defendant's attorney may discuss and reach  
7 a plea agreement. The Court must not participate in these  
8 discussions.

9           So, I want to make it very clear. I know you  
10 distinguished counsel realize that, but, also, for my  
11 distinguished colleagues on the 17th Floor, I want to make it  
12 very clear that I have not participated in your plea  
13 negotiations. They have been carried out by distinguished  
14 counsel and the Court appreciates the effort.

15           And I hope that the Defendant appreciates,  
16 Mr. Khusanov, the fine job your counsel has done for you in  
17 this case as well as the fine job the Government attorneys  
18 have done on behalf off the people of the United States. So,  
19 good job all around, including Probation.

20           And I want to thank you all for your patience.

21           Is there anything else we need to address today?

22           MR. HAGGANS: Not from the Government. Thank you,  
23 your Honor.

24           MR. LEVITT: One moment, please, your Honor.

25           (Pause in proceedings.)

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1 MR. LEVITT: Nothing else, your Honor.

2 THE COURT: Thank you. We're adjourned. Stay safe,  
3 everyone.

4

5 (Matter concluded.)

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8 ooo0ooo

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11 I (we) certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

12

13 /s/ Linda A. Marino  
LINDA A. MARINO

August 26, 2022  
Date

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